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31 JUL 2006

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SUITE 2800
SEATTLE WA 98101-2347

In re Application of
SPANGENBERG et al.
Application No.: 10/561,283
PCT No.: PCT/AU04/00802
Int. Filing Date: 18 June 2004
Priority Date: 20 June 2003
Attorney Docket No.: CASM126914
For: RYEGRASS POLLEN-SPECIFIC
PROMOTERS AND EXPRESSION

DECISION ON REQUEST
UNDER 37 CFR 1.497(d)

This is a decision on applicants' "Response to Notification of Defective Response/Request and Fee to Delete Original Erroneously Named Inventor", treated as a petition to correct inventorship under 37 CFR 1.497(d), filed on 12 June 2006 in the United States Patent and Trademark Office (USPTO). Petitioner seeks to delete Michael Emmerling as inventor in the above referenced application. The requisite \$130 petition fee was paid.

On 12 June 2006, applicant filed a response¹ to 19 May 2006 Notification of Defective Response. Petitioner requests correction of the inventorship, to delete Michael Emmerling as an inventor. In addition to the \$130 petition fee, Petitioner provided the statement of Mr. Emmerling in support of the correction of inventorship under 37 CFR 1.497(d) and the written consent of the assignee. The declaration executed by the joint inventors was submitted on 03 May 2006. Accordingly, applicant has met all of the requirements to delete Michael Emmerling as co-inventor in the above-identified international application.

For the reasons discussed above, the submission under 37 CFR 1.497(d) to delete Michael Emmerling co-inventor is hereby **GRANTED**. The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 03 May 2006.

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¹ The inventorship of an international application entering the national stage under 35 U.S.C.371 is that inventorship set forth in the international application, which includes any changes effected under PCT Rule 92^{bis}. See 37 CFR 1.41(a)(4). Accordingly, an oath or declaration that names an inventive entity different than that set forth in the international application will not be accepted for purposes of entering the U.S. national phase unless the requirements under 37 CFR 1.497(d) are satisfied. These requirements include: (A) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (B) the processing fee set forth in 37 CFR 1.17(i); and (C) the written consent of the assignee if an assignment has been executed by any of the original named inventors (see 37 CFR 3.73(b)).